

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

2001 JUN -5 P 3: 38

In re:

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)
 Universal Produce & Italian Products,))
 LLC and Albert S. Lomoriello, Jr.))
 Respondents))

PACA Docket No. D-00-0007

Consent Decision and Order

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §499a *et seq.*), hereinafter referred to as the Act or PACA, instituted by a complaint filed on March 13, 2000, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

A copy of the disciplinary complaint was served upon Respondents. The Respondents and the Complainant have now agreed to the entry of a Decision and Order as set forth herein.

Therefore, pursuant to Section 1.138 of the Rules of Practices (7 CFR 1.138), the following Decision and Order is issued without further procedure or hearing.

Findings of Fact

1. Respondent Universal Produce & Italian Products is a Connecticut limited liability company whose business and mailing address is 7A Market Street, Stamford, Connecticut, 06902. Pursuant to the licensing provisions of the PACA, license number 980769 was issued to this Respondent on March 9, 1998. This license has been renewed annually and is next subject to renewal on or before March 9, 2002.

2. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

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3. As more fully set forth in paragraphs II and III of the disciplinary complaint, Albert S. Lomoriello, Jr. was found to be responsibly connected with Hunts Point Produce, Co., a firm against which a Decision and Order was issued June 17, 1997, finding that it had committed willful, repeated and flagrant violations of section 2 of the Act. The decision and order in the Hunt's Point Produce, Co. case became effective on August 4, 1997. Therefore, pursuant to section 8(b) of the Act, Albert S. Lomoriello, Jr. was barred from employment with any PACA licensee until August 4, 1998, and thereafter barred until August 4, 1999 unless the employing company furnished or maintained a bond in form and amount satisfactory to the Secretary.

4. On March 20, 1998, the Department received information indicating that Albert S. Lomoriello, Jr. was employed by Respondent Universal Produce & Italian Products, LLC in violation of his employment restrictions. Complainant informed Respondent Universal Produce & Italian Products by letter received by Respondent on April 21, 1998, that Lomoriello was not eligible for employment with the company until after August 4, 1998, and then only with the approval of the Secretary and the posting of a bond. Respondent continued to employ Lomoriello.

Conclusions

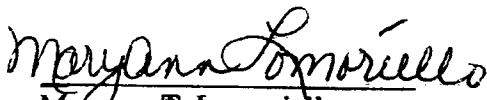
Respondent Universal Produce & Italian Products's continued employment of Albert S. Lomoriello, Jr. constitutes willful, repeated, and flagrant violations of section 8(b) of the Act (7 U.S.C. §499h(b)), for which the Order below is issued.

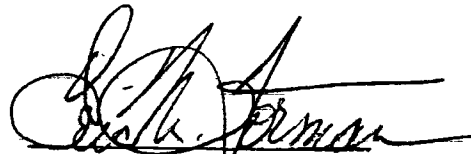
Order

A finding is made that Respondent Universal Produce & Italian Products, LLC has committed willful, repeated, and flagrant violations of Section 8 (b) of the Act (7 U.S.C. §499h(b)). The PACA license of Respondent is hereby suspended for sixty (60) days.

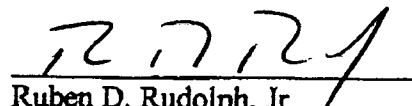
Employment sanctions restricting Albert S. Lomoriello, Jr. shall be extended for one year in accordance with section 8(b) of the Act (7 U.S.C. 499h(b)). Albert S. Lomoriello Jr. is barred from employment (as that term is defined in 7 U.S.C. 499a (10)) with any PACA licensee for one year commencing with the effective date of this order.

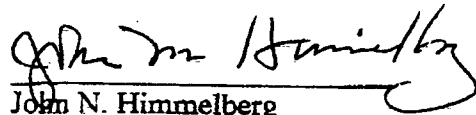
This order shall become effective July 1, 2001. Copies hereof shall be served upon the parties.


Maryann T. Lomoriello
Universal Produce and
Italian Products, LLC.


Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service
U.S. Department of Agriculture

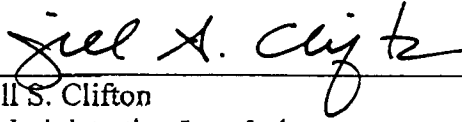

Albert S. Lomoriello, Jr.


Ruben D. Rudolph, Jr.
Attorney for Complainant


John N. Himmelberg
Attorney for Respondent

Done at Washington, D.C.

This 5 day of June, 2001



Jill S. Clifton

Administrative Law Judge